

## AGENDA

### Introduction

#### I. Principles and Policy

1. Need for Statutory Charters
2. Future of Covert Action
3. Accountability to Congress

#### II. Oversight and Restrictions

1. FBI-CIA Jurisdiction
2. FBI Restrictions
3. Restrictions on Domestic Activities
4. Restrictions on Intelligence Sharing
5. Oversight within Community
6. Executive Branch Oversight
7. Citizens Oversight
8. Consideration of Covert Actions
9. Congressional Oversight
10. Budget Presentation
11. Congress as Consumer
12. Congressional Secrecy Protection

ON-FILE NSC RELEASE  
INSTRUCTIONS APPLY

#### III. Organization and Management

1. Community Leadership
2. Controlling Resources
3. Intelligence Collection
4. Intelligence Production
5. Covert Action
6. Major Reorganization Options

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#### IV. Secrecy

1. Revision of Classification System
2. Statutory Classification System
3. Degree of Protection

DIA, OSD, Navy, NSA, and  
FBI review(s) completed

#### V. Congressional Proposals

1. Senate Select Committee
2. House Select Committee

#### VI. Additional Issues

1. Justice
2. Defense

## ACCOMPLISHMENTS THUS FAR

- Created the "Rockefeller Commission" to investigate the domestic activities of CIA.
- Collected materials concerning allegations of assassination plots by the intelligence community and made it available, under appropriate safeguards, to the Congress and the Justice Department.
- Administrative steps taken to implement changes to prevent further abuses.
- President has publicly made it clear that he will not tolerate illegality or impropriety by any Executive Branch official while he is President.
- Provided the appropriate committees of Congress substantial information concerning the intelligence community under procedures designed to facilitate the Committees' investigations while trying to maintain the confidentiality of ongoing foreign intelligence activities.
- Established a Cabinet-level group in September to review all foreign intelligence community issues.

## INTRODUCTION

### Goals for the Intelligence Community

- Eliminate abuses
- Improve organization and management
- Improve quality
- Protect secrecy, including intelligence sources and methods
- Establish more effective relations with Congress

## INTRODUCTION (Cont.)

### To Achieve Goals:

- Public confidence must be restored
  - In the Community
  - The legitimacy of its role
  - Its adherence to law
- Decisions should be taken comprehensively
  - System is complex
  - Issues are interrelated
  - First opportunity since 1947 to deal with the Community as a whole
  - Times and public demand it

## INTRODUCTION (Cont.)

### Key Overall Problems

Question as to adequacy of charters for key agencies

- NSA; DIA; NRO, FBI, CIA
  - Ambiguities
  - Absence of guidelines
  - Problem of Congressional responsibility

Relationship between Executive and Congress

- Recent investigations highlighted Executive Privilege issues
- Problem of covert actions
- Problem of warrantless wiretapping
- Congressional oversight of Executive management

Questions have been raised about responsibilities within Executive Branch

- Role of DCI
- Between DCI and Defense
- Between Community and Executive Office of President

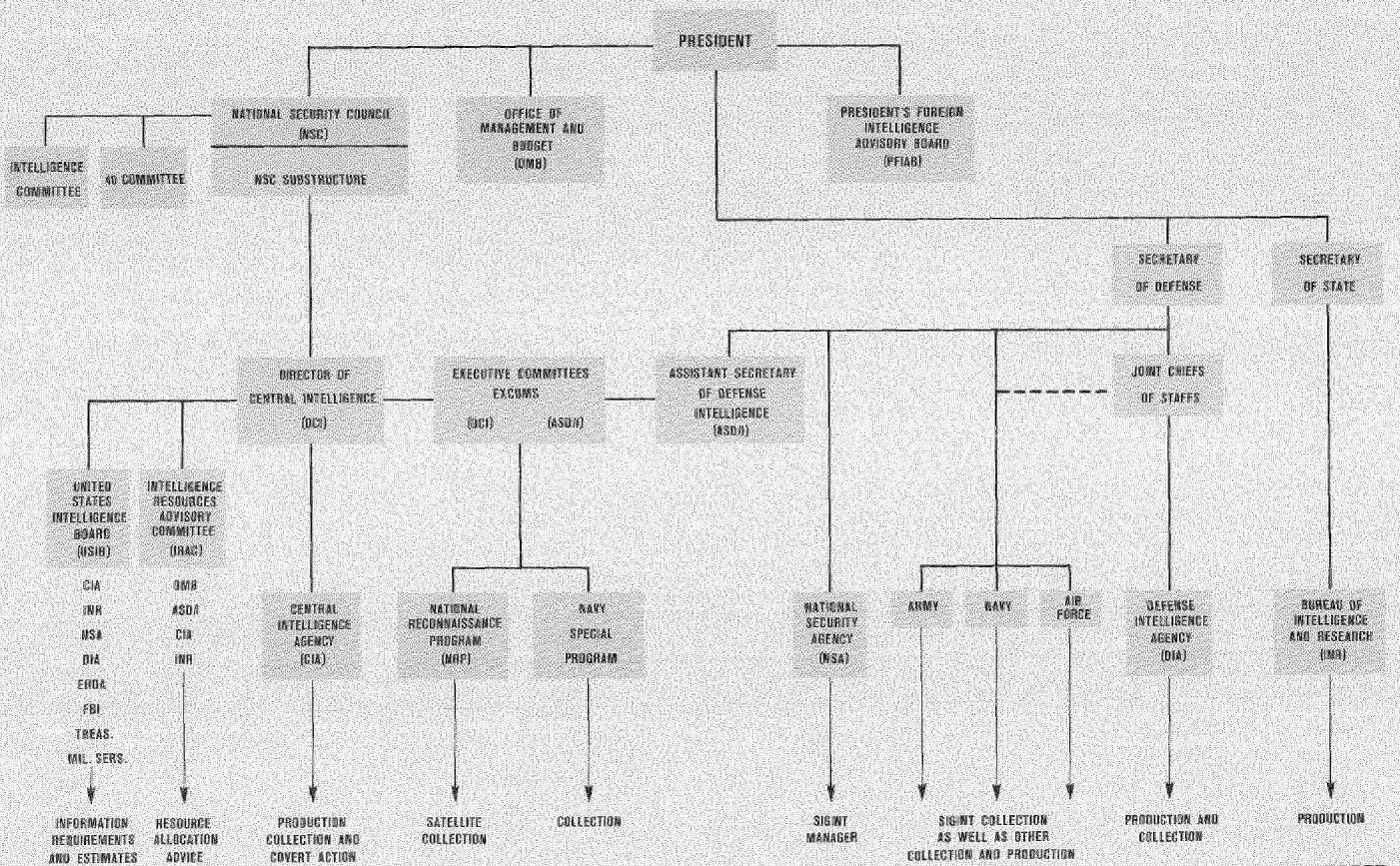
## INTRODUCTION (Cont.)

### Guideposts for decision-making:

- Community needs a strong and independent head
- Leader should have sufficient institutional support
- Competition in analysis (production) of intelligence, with good coordination, should be preserved
- The President should have direct access to an intelligence official without major foreign affairs or defense duties
- Organizational changes should promote technological creativity (U-2,
- There should be an institutional mechanism to assure lawfulness and propriety of actions.

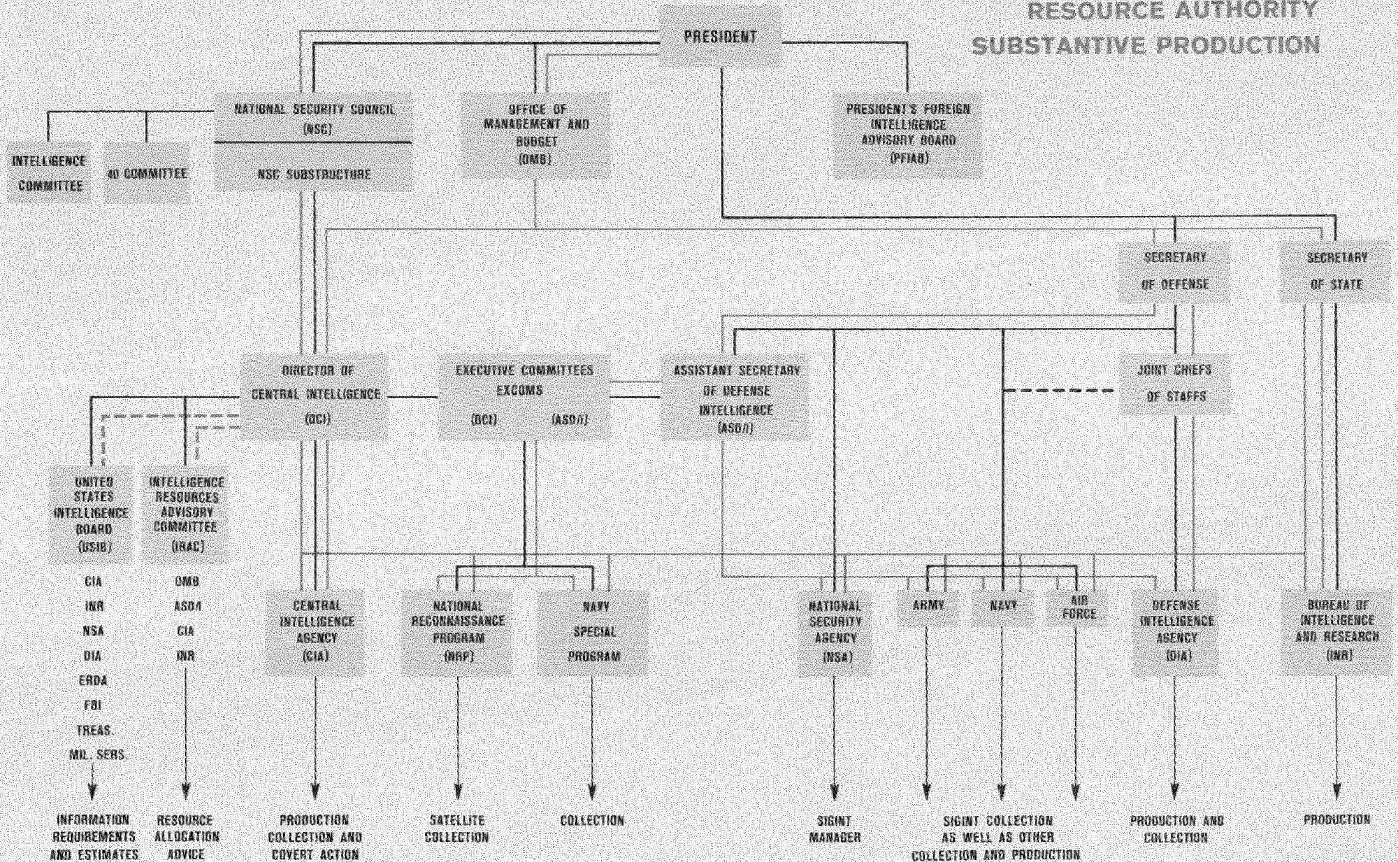
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# THE INTELLIGENCE COMMUNITY



# THE INTELLIGENCE COMMUNITY

RESOURCE AUTHORITY  
SUBSTANTIVE PRODUCTION



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SECRET

**ISSUE: Need for Statutory Charters**

**Should Intelligence agencies responsibilities (charters) be specified in new Executive Orders, statutes or left as is?**

**New Executive Orders**

Foreign policy is Executive responsibility

President needs flexibility

"Mixed" charter has worked 30 years

**Statutes**

Congress will exercise its will

Stability and predictable guidelines result

Focus will be on past abuses

**As Is (Statute for CIA, Executive Order or Department Directives for others)**

No serious problems now

Absence for some agencies not major issue

**ISSUE: Future of Covert Action**

**Should charters deal with covert action?**

**No**

**Not necessary or appropriate to have charter**

**Can't admit publicly or diplomatically**

**Commits President - Executive to responsibility**

**Congress may allow only general references**

**Yes**

**Abuses must be prevented**

**Since actions are necessary, charter is not harmful**

**Restores public confidence in Community**

**Congress will insist on some references in legislation**

**ISSUE: Accountability to Congress**

**Should Executive be more accountable to Congress?**

**Yes - Negotiate appropriate relationship**

Congress is of necessity more involved

Traditional Congressional mechanisms have collapsed

Leaks and other problems can be handled

Attention will subside

**No - Oppose all efforts**

Constitution gives Executive the responsibility

Accountability entails control and interference

Secrecy will be at greater risk

**ISSUE: FBI Restrictions**

**What form should restrictions on FBI take?**

**Justice Department Regulation**

**Leaves most flexibility for amendment**

**Provides least public assurance**

**Executive Order**

**Provides greater assurance to public**

**Similar to treatment of rest of Community**

**Appears to assert direct Presidential control over FBI**

**Could diminish Attorney General authority**

**Statute**

**Provides greatest assurance to public**

**Inflexible**

**Could be unreasonable**

**Less Executive Branch control**

**Mix of all three**

**ISSUE: Restrictions on Domestic Activities**

**Should restrictions order allow gathering information on domestic activities of U.S. citizens by foreign intelligence agencies in limited circumstances?**

**Yes, If:**

**Limited to terrorists, narcotics, and collaboration with foreign powers or organizations**

**Limited to foreign sources or collected abroad**

**Recognizes legitimate counter-intelligence needs**

**No**

**Exception too broad**

**Covers any person dealing with foreign corporation**

**CIA prohibited from police or law enforcement role**

**ISSUE: Restrictions on Intelligence Sharing**

**Should restrictions order allow sharing of information on domestic activities of citizens among agencies when receiving agency would not be permitted to collect such information itself?**

**Yes**

**Would permit CIA to obtain information from FBI it is not otherwise permitted to obtain**

**Gives CIA access to needed information**

**Abuses could be limited by A.G. guidelines**

**No**

**Would allow intelligence agencies to get law enforcement information, and vice versa**

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**Exception undermines credibility of restrictions order**

**ISSUE: Oversight Within Community**

**Is oversight and control within the Community adequate?**

**If not: Establish Community Inspector General**

**In line with needs found by Rockefeller Commission**

**Could report to DCI**

**Would create antagonism between DCI and agencies in disputes over access, jurisdiction**

**Upgrade Inspector General for each agency**

**Action can be taken in each agency**

**Recommended by Rockefeller Commission**

**CIA has proposed upgrading both I. G. and General Counsel**

**Agency's I. G. 's could report to DCI**

**Some action necessary**

ISSUE: Executive Branch Oversight

Should the President have independent advisor? Who?

The Attorney General

Already has such responsibilities as chief legal officer

Require special staff within Justice

Special Counsel to President

Greatest public perception of change

Require staff in Executive office

Focused on problem

Possible conflicts with A.G.

Government-wide Inspector General

Not limited to intelligence

Requires mandate, greater visibility

With fixed term and Senate confirmation?

NSC

Now has statutory responsibility

Conflicts with operational role

Panel

3 Executive Branch officials (e.g., Vice President, Attorney General and a Presidential Assistant who has no operational responsibilities)

**ISSUE: Citizen Oversight**

**Should non-governmental oversight be provided?**

**Give PFIAB Oversight Responsibilities**

**Recommended by Rockefeller and Murphy Commissions**

**Reassuring to public**

**Difficult for part-time body, even with staff**

**Could conflict with traditional PFIAB role as intelligence advocate**

**PFIAB lacks credibility**

**Require a PFIAB public annual report**

**Establish Independent Board**

**Could use public reports to reassure public**

**Greater public acceptance**

**Could duplicate PFIAB staff**

**ISSUE: Consideration of Covert Actions**

**How should covert action proposals be considered?**

**Formal meetings of 40 Committee**

Lack of meetings cited as problem

Formal Committee approval likely to be Congressional action

Reassures public

**Designate A.G. as Member of 40 Committee**

Bring legal advice to deliberations

Add other departments as required

Inconsistent with an A.G. oversight role

**Give 40 Committee an NSC staff**

Provide analysis of risk and benefits

Reduce departmental biases

Involves NSC more deeply in covert operations

## ISSUE: Congressional Oversight

How should Congress exercise its oversight function?

### Through Joint or Separate Committees

Joint committees hard to structure

Joint committees would limit risk of disclosure

Separate committee more normal

Need separate checks provided by two-house action

Senate has separate, preeminent foreign policy role

Separate committee is current Senate Select Committee approach

### New Committee(s) with Oversight only or Oversight and Legislative Jurisdiction?

Adding legislative jurisdiction to new committees raises problems

Oversight alone is weak

Oversight alone allows only disclosure remedy  
for expressing disapproval

Armed Services not prepared to share or give up  
legislative authority

Question: How to handle authorizations?

## **ISSUE: Budget Presentation**

**How should the intelligence budget be presented to Congress?**

### **Status Quo**

**Reveal details and total to pertinent committees**

**Details now more widely available to members**

**Representative Giaimo proposal to reveal budget defeated  
267 to 147 on October 1, 1975**

**Size is still undisclosed to public**

### **Classified Appendix to Budget**

**Available to all members**

**Include general, big dollar data**

**Could meet needs without undue risk**

**Leads to demand for detail**

### **Publish Agency totals**

**Make totals only public**

**Leads to request for details**

**Could dispel needlessly controversial issue**

**KGB already has it and more**

## ISSUE: Congress as Consumer

How should substantive intelligence be provided to Congress?

### Current Procedures and Availability

CIA, others brief on specific subjects

Regular publications sent to Committees

NIE's not now available

Congress claims needs not met

### Increase Availability

Sensitive information not likely to be protected - sources and methods not separable from substantive intelligence

Congress and Executive will disagree on amount, type, timing, etc.

Congress will use to oppose policies, criticize agencies, etc.

Information will be subject to partisanship

Dissent, differences within Community would be stifled

NIE's pose problems due to particular policies contained

Establish office (under DCI) to serve Congress

Avoid statutory requirement, work out procedures

**ISSUE: Congressional Secrecy Protection**

**How should Congress protect classified information?**

**Establish Executive-Congressional Board**

Would agree on security classification to items

Both branches respect agreed designations

Could handle publication issues

Could not handle leaks

**Case Amendment approach**

Secrecy removed from items only by President

Only named Committees have access to classified agreements

Similar to procedure with Pike Committee

Defeatable by leaks

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Could supplement other sanctions on members

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**ISSUE: Community Leadership**

**How should Community leadership be improved?**

**Make NSC more effective**

**Create second deputy Assistant to President (for Intelligence) responsible for guiding Community.**

**Reinvigorate NSC Intelligence Community**

**Focuses on political-military aspects of intelligence**

**Make DCI more effective**

**Separate from CIA management**

**Give DCI resource and line control over national intelligence programs**

**DCI full member of NSC**

**Make DCI independent adviser to President**

**DCI chairs 40 Committee and NSCIC**

**Appoint new White House Special Assistant for Foreign Intelligence**

**Broadens intelligence beyond NSC purview**

**Highlight issues such as economics, food, etc.**

**Increase Executive Office oversight**

**Potential for improper White House pressure on intelligence agencies**

**ISSUE: Controlling Resources**

**How should intelligence resources be controlled?**

**Strengthen OMB**

President has ultimate authority -- OMB his agent

OMB is instrument in all other areas of government

Trade-offs must be made among different agencies

Allocation and reprogramming controls needed

**Strengthen DCI**

Authority given in '71 Directive has not been used

DCI's staff would have to be expanded

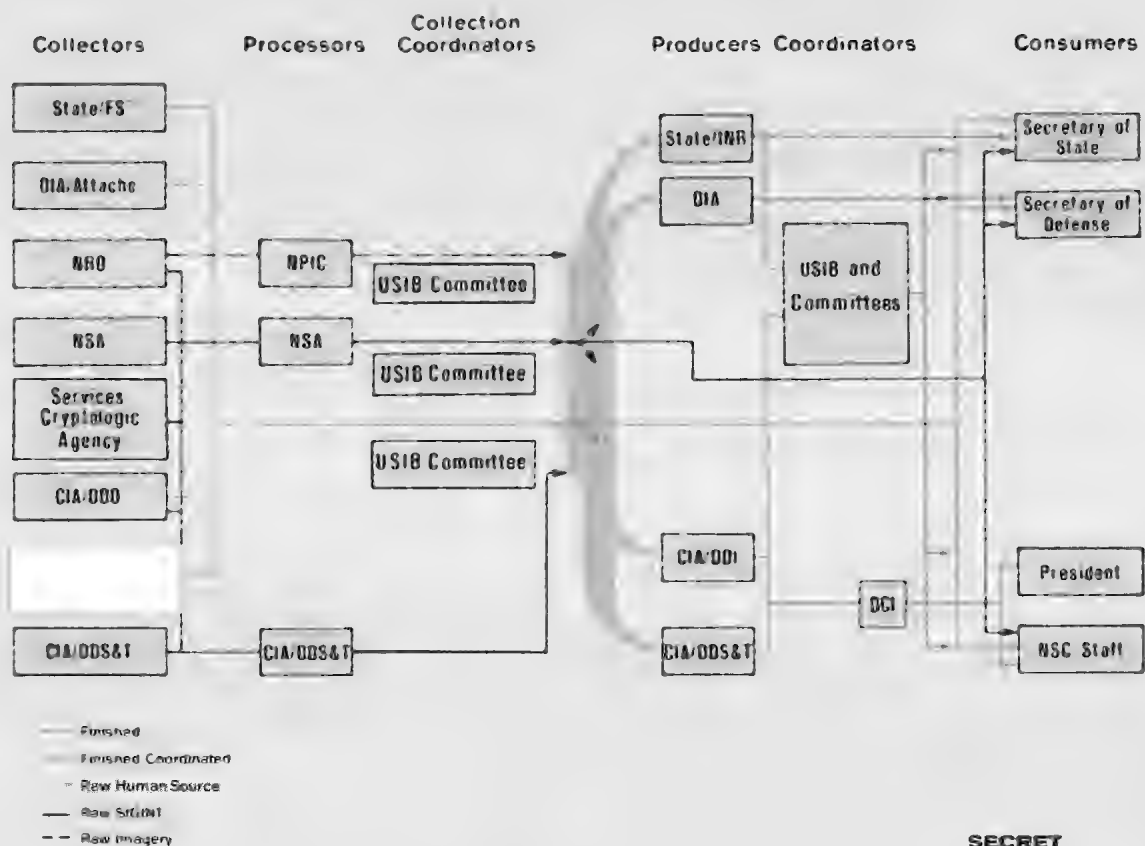
Increases authority of DCI vis-a-vis the Secretary of Defense

**Consolidate national programs (CIA, CCP, NRP) under single manager**

Single authority for intelligence resource trade-offs

Removes DOD programs from peace-time DOD control

## FLOW OF INFORMATION THROUGH THE INTELLIGENCE COMMUNITY



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\*The Foreign Service is not considered part of the Intelligence Community

**ISSUE: Intelligence Collection**

**Should intelligence collection agencies (CIA, NSA, NRO, etc) be consolidated?**

**Minor consolidation (all SIGINT in NSA; all HUMINT in CIA)**

**Minimal impact on reducing competition, duplication**



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**Little bureaucratic dispute**

**Major consolidation (CIA, CCP and NRP in one agency)**

**Major bureaucratic upheaval**

**Reduce duplication, costs**

**Increase trade-offs among collection techniques**

**Separate consumers and possibly analysts from collectors**

**Unless in DOD, major problem for military users**

**No consolidation**

**Each agency has particular expertise**

**No real problems solved by consolidation**

**Coordination improvable without consolidation**

**ISSUE: Intelligence Production**

Should intelligence analysis and production be realigned?

Create independent analytical organization

Spin-off CIA analysis from CIA

Independent of collection, operational biases

No taint from clandestine services

Provide policy-makers with more neutral assessments and estimates

Eliminate CIA production and Upgrade existing departmental analytical capabilities

Key estimates still coordinated

Greater responsiveness to departmental needs

Increase difficulties of DCI to coordinate all except key products such as National Estimates

Build-up existing departmental and central capabilities



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Expansion need not be costly

**ISSUE: Covert Action**

**Should covert action (and clandestine activity?) be separated from CIA?**

**Transfer to State**

**Endangers State's overt status**

**Contrary to diplomatic practice**

**Transfer to Defense**

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**Raises public apprehension over accountability and danger of escalation**

**Create separate agency**

**Removes covert actions from intelligence function**

**Isolates covert activity from Agency supervision**

**Leave with CIA**

**Status quo is acceptable**

**Improve cover systems,**

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ISSUE: Major Reorganization Options

Which, if any, major reorganization is appropriate?

Create new intelligence agency with line control of CIAP, CCP and NRP (NSC/OMB I)

National programs best managed centrally

Central funding and line control

Collection separated from all production except national

Requires new legislation

Create Director General with national resource control (NSC/OMB II)

Would not have line control

No vested interest in any element

Separates DGI from CIA

DGI could have NIO's (Option # II) or all CIA national intelligence production (Option # IIA)

Requires new legislation

Create Director of Foreign Intelligence to coordinate (NSC/OMB III)

Would have neither line nor resource control

DFI would be truly independent

DFI could never adequately control DOD resources

Coordination difficult without power base

Production is either left with CIA (Option # III) or split off to State and Defense (Option # IIIA)

Requires new legislation

Expand DCI Community control (NSC/OMB IV)

Create second deputy to run CIA

Structure Executive Committees for SIGINT, as now used for NRP

Allows improvement without legislation

No Objection to Declassification in Part 2010/09/16 : LOC-HAK-424-3-1-6  
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MAJOR REORGANIZATION OPTIONS

	OPTION I	OPTION II	OPTION III	OPTION IV
	<u>CENTRALIZED NATIONAL INTELLIGENCE PROGRAM</u>	<u>CENTRALIZED RESOURCE CONTROL</u>	<u>DEPARTMENTAL EMPHASIS</u>	<u>MODIFIED CURRENT ARRANGEMENT</u>
Leader	Director of Intelligence (DI)	Director General for Intelligence (DGI)	Director, Foreign Intelligence (DFI)	Director, Central Intelligence (DCI)
Leader's Line Authority	CIAP, CCP, NRP	None	None	Indirect over CIA
Leaders Resource Authority	CCP, NRP, CIAP	CCP, NRP, CIAP	Review only	Controls CIAP; Reviews other resources
Leader's Collection Responsibilities	Control CIAP, CCP, NRP	Requirements & priorities	Requirements & priorities	Requirements & priorities
Leader's Production Responsibilities	All national intelligence	National estimates; tasks other elements	National estimates; tasks other elements	National estimates; controls CIA production
		OPTION IIA: DGI control of present CIA production	OPTION IIIA: Transfers CIA production components to departments	
Committee Structure	Eliminate most existing	Retain existing; Eliminate IRAC	Retain existing or similar committees	Retain existing committees; Add SIGINT ExCom
Legislative Required	Yes	Yes	Yes	No

No Objection to Declassification in Part 2010/09/16 : LOC-HAK-424-3-1-6

**ISSUE: Revision of Classification System**

**Should the classification system be revised?**

**Yes, Revision is necessary**

**Current system is subject to much criticism**

**Criteria for categories are vague**

**Extensive over-classification claimed**

**Downgrading exemptions often invoked**

**Compartmentation not authorized by Executive Order**

**Policy makers and analysts denied access**

**Congressional enactment of needed criminal sanctions impeded  
by claimed overclassification**

**No, Revision is not necessary**

**System is not the problem**

**Executive Order issued only recently, March, 1972**

**Issues difficult to solve**

**NSC study now underway**

**ISSUE: Statutory Classification System**

**Should the classification system be revised by statute, or Executive Order?**

**Statute**

**Statutory criminal protection more likely with statutory classification system**

**Congress is liable to act**

**Legislation is difficult to amend**

**Could be limited to Congressional handling of classified information**

**Executive Order**

**Historical route**

**Executive knows categories requiring protection**

**President can act with comprehensive precision and amend when necessary**

**Greater secrecy**

ISSUE: Degree of Protection

Should legislation protect sources and methods? All classified information?  
Who? Civil sanction only?

Sources and Methods?

Not inherently more damaging to disclose

DCI now required by statute to protect

DCI now has no powers to protect

All classified information?

Present protection inadequate

Only certain types protected

Successful prosecution difficult

Issue is controversial, esp. S.1 criminal sanctions

All persons?

Extension beyond government employees controversial

Raises 1st Amendment questions

Civil Sanctions Only?

CIA draft bill includes civil and criminal sanctions

Injunction alone insufficient

Criminal sanction does not raise "prior restraint" issue

Neither sanction effective with respect to Congress

Secrecy oath now provides limited civil protection

**PROPOSALS EXPECTED FROM  
SENATE SELECT COMMITTEE**

New Senate "Committee on Intelligence Activities" (By statute)

General oversight function

Limit of six years for 9 Members and for staff

Legislative jurisdiction over CIA, DIA, NSA, intelligence operations  
in Defense, Justice, State and Treasury

Authorization jurisdiction over CIA, DIA, NSA, national DOD, and FBI

Committee shall be "fully and currently informed with respect to  
all intelligence activities"

Committee to formulate rules and consult with President re public  
disclosure, but ultimate determination is in Senate by vote

"Especially sensitive" activities disallowed unless reported in  
advance

Annual authorizations for appropriations

GAO access to all files

Budgetary arrangement "recommendations" (possible legislation)

Possible Recommendations on reorganization, including:

DCI's Role

Location of human intelligence collection

Role of DCI and Sec/Def on Technical collection

Production of National Estimates

Future of Covert Action and Prohibition on Activities

Congressional involvement in approval of covert actions

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PROPOSALS EXPECTED FROM  
HOUSE SELECT COMMITTEE

Fiscal Procedures

Public disclosure of total spending

Bring intelligence agencies, especially CIA under fiscal controls applying to other agencies

Compel CIA to justify programs and budget before authorization and appropriation

GAO would review and audit

Congressional Oversight (similar to SSC)

Establish permanent standing "Committee on Foreign Intelligence"

Would have legislative authority

Membership limited to 3 consecutive terms to ensure fresh approach

DCI and President required to report

Jurisdiction over domestic intelligence programs deferred

Leaves open possible joint committee

Amend Hughes Amendment to require prior reporting on covert actions, all clandestine activities and new programs

Limiting Secrecy

Provide procedure for Congressional release of information on its own judgment

Final decision with Speaker, Majority and Minority leaders, acting for House

Amend House orders to require adherence, impose sanctions

Establish new independent Commission to adjudicate requests for declassification from public

Establish 5-year limit to classification unless Commission decides otherwise

ADDITIONAL ISSUES SUGGESTED BY

THE JUSTICE DEPARTMENT

What limitations should be placed on information that may be gathered, and the methods that may be employed abroad with respect to intelligence activities directed against U. S. citizens and permanent resident aliens?

Should a judicial warrant procedure be sought for foreign intelligence electronic surveillance including NSA interceptions, (a) through legislation, or (b) through attempts to develop a common law warrant?

What should be the Executive Branch position on the desirability of legislative proposals establishing detailed substantive and procedural requirements for foreign intelligence activities?

Should changes be sought in the mail statutes to clarify their application to openings conducted for foreign intelligence purposes?

**ADDITIONAL ISSUE SUGGESTED BY  
DEPARTMENT OF DEFENSE**



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ABBREVIATIONS

DCI - Director, Central Intelligence  
DI - Director of Intelligence (Option I)  
DGI - Director General for Intelligence (Option II)  
DFI - Director, Foreign Intelligence (Option III)  
D/CIA - Director, Central Intelligence Agency (Options II and III)  
ASD(I) - Asst. Secretary of Defense, Intelligence  
CIAP - CIA Program  
CCP - Combined Cryptologic Program (NSA and Service Cryptologic Agencies)  
NRP - National Reconnaissance Program  
NRO - National Reconnaissance Office  
NSA - National Security Agency  
GDIP - General Defense Intelligence Program (DIA and Service agencies)  
INR - Dept. of States' Bureau of Intelligence and Research  
NSCIC - NSC Intelligence Committee - chaired by Asst. to President for National Security  
USIB - U.S. Intelligence Board - chaired by DCI  
IRAC - Intelligence Resources Advisory Committee - chaired by DCI  
PFIAB - President's Foreign Intelligence Advisory Board  
ExCom- Executive Committee (to direct NRO)  
IC - Intelligence Community (Staff)  
NIO - National Intelligence Officers  
NIE - National Intelligence Estimates  
SIGINT - Signals Source Intelligence  
HUMINT - Human Source Intelligence  
PHOTINT - Photo (Imagery) Source Intelligence